

Regular Session, 2009

HOUSE BILL NO. 368

BY REPRESENTATIVES BURRELL, AUBERT, AUSTIN BADON, BARROW, DIXON,
ELLINGTON, HARDY, HAZEL, HINES, GIROD JACKSON, MICHAEL
JACKSON, KATZ, LAFONTA, LEBAS, LIGI, PATRICIA SMITH, ST.
GERMAIN, AND WILLMOTT AND SENATOR THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

To amend and reenact R.S. 26:901(10) through (16) and to enact R.S. 26:901(17) and 910.1, relative to tobacco products; to provide for definitions; to prohibit the sale or delivery of tobacco products through a self-service display; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 26:901(10) through (16) are hereby amended and reenacted and R.S. 26:901(17) and 910.1 are hereby enacted to read as follows:

§901. Definitions

As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

* * *

(10) "Self-service display" means any display that contains tobacco products and is located in an area openly accessible to the retail dealer's customers and from which such customers can readily access tobacco products without the assistance of a salesperson. A display case that holds tobacco products behind locked doors does not constitute a self-service display for purposes of this Chapter.

(11) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(H) (12) "Smoking tobacco" includes granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in pipe or cigarette.

(12) (13) "Stamp" means the impression, device, stamp, label, or print manufactured or printed as prescribed by the secretary by the use of which the tax levied hereunder is paid. By way of extension, and not limitation, the term "stamp" means any impression or character affixed to or which shall be stamped upon commodities by metered stamping machine or device by use of which the tax levied hereunder is paid.

~~(13)~~ (14) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(15) "Vending machine" means any mechanical, electric, or electronic self-service device which, upon insertion of money, tokens, or any other form of payment, automatically dispenses tobacco products.

~~(15)~~ (16) "Vending machine operator" means any person who controls the use of one or more vending machines as to the supply of cigarettes or any tobacco products in the machine or the receipts from cigarettes vended through such machines.

(16) (17) "Wholesale dealer" means a dealer whose principal business is that of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent of whose total tobacco sales are to retail stores other than its own or its subsidiaries within Louisiana. Wholesale dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services fifty or more cigarette vending machines in Louisiana other than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps as of January 1, 1974.

* * *

§910.1. Self-service displays

A. In order to prevent persons under eighteen years of age from purchasing or receiving tobacco products from self-service displays, the sale or delivery of tobacco products through a self-service display is prohibited unless the machine is a vending machine that complies with the terms and provisions of R.S. 26:910.

1 B.(1) The provisions of this Section shall not apply to a tobacconist at a
2 particular outlet or a retail tobacco business.

3 (2) "Retail tobacco business" for purposes of this Section means a bona fide
4 retail dealer engaged in the sale of tobacco products and accessories for retail sale
5 where fifty percent or more of the total sales for the preceding twelve months,
6 excluding fuel sales, were tobacco products, including cigarettes.

7 (3) "Tobacconist at a particular outlet" for purposes of this Section means
8 a bona fide retail dealer engaged in receiving bulk smoking tobacco for the purpose
9 of blending such tobacco for retail sale at a particular retail outlet where fifty percent
10 or more of the total purchases for the preceding twelve months were purchases of
11 tobacco products, excluding cigarettes.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____